

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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NATHANIEL SHAPIRO,

Plaintiff,

v.

CABLE NEWS NETWORK, INC., et al.,

Defendants.

Case No. 2:17-cv-03033-APG-CWH

**ORDER DENYING MOTION FOR
RELIEF FROM ORDER**

(ECF No. 29)

I previously granted the defendants' motion to dismiss because no opposition had been filed and granting the motion was proper on its merits. ECF No. 26. Plaintiff Nathaniel Shapiro now asks me to reconsider that decision. His counsel contends he did not file an opposition because his clerk mis-calendared the response deadline. ECF No. 29. But even if that is true, reconsideration is not justified by the factors I must consider. *See Lemoge v. United States*, 587 F.3d 1188, 192 (9th Cir. 2009); *see also Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S. 380 (1993).

Shapiro's counsel has not diligently litigated this case. He did not properly or timely serve the defendants, leading to me dismissing several of them.¹ Shapiro did not timely respond to defense counsel's attempts to confer about service of process and an extension of the answer deadline. *See* ECF No. 31 at 3. After I dismissed the complaint, Shapiro waited another three weeks to file the present motion, despite having already completed the proposed opposition to the motion to dismiss. *See* ECF No. 29 at 3:19. If my dismissal order is set aside, the defendants will have to expend further litigation fees and expenses and likely endure more needless delays because of Shapiro's lack of diligence.

¹ Shapiro's counsel waited 36 days to seek to overturn that dismissal, but then did so improperly. ECF No. 23. Although I gave him a chance to correct that, he did not do so. ECF No. 25.

1 Shapiro's counsel offers nothing extraordinary (i.e., anything beyond failing to note the
2 proper filing deadline) to justify setting aside the dismissal. And his failure to quickly file this
3 motion, and failure to timely and properly prosecute this case, confirms the just nature of the
4 dismissal.

5 Most importantly, Shapiro has not presented a meritorious claim to justify reopening the
6 case. I granted the motion to dismiss on its merits. Shapiro's proposed opposition does not
7 change my mind about that. Shapiro has not shown a likelihood of succeeding on his complaint.
8 Further litigation would only delay, and render more expensive, the present outcome.

9 IT IS THEREFORE ORDERED that the plaintiff's motion for relief (**ECF No. 29**) is
10 **DENIED.**

11 Dated: March 25, 2019.

A handwritten signature in dark ink, appearing to read 'A. Gordon', with a long horizontal stroke extending to the right.

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14 ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE
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